

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Final Office Action dated July 8, 2010. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-23, 25, 56-67, and 69-97 are pending in the Application. Claims 1, 21, 73, 83, 87, 90, and 93 are independent claims.

The Amendment filed September 23, 2008 is objected to under 35 U.S.C. § 132(a) for introducing new matter. This objection to the prior amendment is respectfully traversed. However, in the interest of advancing consideration and allowance of the pending claims, the Applicants have elected to amend claim 1 to remove the "less than 2,500 lux" limitation, but fail to see why the recitation, for example contained in paragraph [0026] of the present application are considered as not to being described in the specification. Accordingly, it is respectfully requested that the objection be withdrawn.

In the Office Action, claims 1-23, 25, 57-67 and 69-89 are rejected under 35 U.S.C. § 112, first paragraph. This rejection is respectfully traversed. However, as indicated above the Applicants amendment to claim 1 removing the "less than 2,500 lux" limitation obviates this rejection. Accordingly, it is respectfully submitted that claims 1-23, 25, 57-67 and 69-89 are in proper form and it is respectfully requested that this rejection under 35 U.S.C. § 112, first paragraph, be withdrawn.

Claims 1-20, 56-67 and 69-82 are rejected under 35 U.S.C. § 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter of the invention. This rejection is respectfully traversed. However, in the interest of advancing

consideration and allowance of the pending claims, the Applicants have elected to amend claim 1 to remove the objected limitations of “ocular area” and “less than 2,500 lux”. Further, with regard to alleged incompleteness of the claims, the Applicants assert that the “diffusion lens” is not an essential element of the invention of the independent claims and that leaving it out does not make the independent claims incomplete. For example, paragraph [0023] of the specification of the present application makes clear that certain elements, such as the diffusion lens (not listed specifically) may be added as desired. With regard to claim 56, the Applicants believe that the limitations of the claim may be satisfied by an apparatus with or without the lens when the light sources output light of about 1,000 lux to about 2,000 lux at a distance of about 6 inches to about 12 inches (e.g., see, present application, paragraph [0040]). Claims 65, 66, 69 and 82 are amended in compliance with the Examiner’s suggestions. Accordingly, it is respectfully submitted that claims 1-20, 56-67 and 69-82 are in proper form and it is respectfully requested that this rejection under 35 U.S.C. §112, second paragraph, be withdrawn.

In the Office Action, claims 87-89 are rejected under 35 U.S.C. § 102(b) over U.S. Patent No. 6,381,124 to Whitcher et al. (“Whitcher”). Claims 1-5, 11, 13, 18-21 and 57 are rejected under 35 U.S.C. § 102(b) over U.S. Patent No 6,135,620 to Marsh (“Marsh”). Claims 1, 7-12, 19, 20, 56-62, 64-67, 70-78, 83-86 and 93-95 are rejected under 35 U.S.C. § 102(e) over U.S. Patent No. 6,875,225 to Pederson et al. (“Pederson”). Claims 83-88 and 93-97 are rejected under 35 U.S.C. § 102(e) over U.S. Patent No. 7,057,886 to Yano et al. (“Yano”). Claims 1, 7-12, 19, 20, 56-62, 64-67, 70-73, 83-89 and 93-97 are rejected under 35 U.S.C. § 103(a) over Pederson in view of U.S. Patent Publication No.

2001/0056293 to Brainard ("Brainard"). Claims 1, 2, 4-6 and 13-18 are rejected under 35 U.S.C. § 103(a) over Whicher in view of U.S. Patent No. 6,596,571 to Arao et al. ("Arao") and "HP Jornada 700 Series Handheld PC User's Guide ("HP User's Guide"), and further in view of admitted prior art. Claims 1-3, 12-19, 56-67 and 69 are rejected under 35 U.S.C. §103(a) over Whitcher in view of U.S. Patent No. 5,589,741 to Terman ("Terman") and further in view of the admitted prior art. Claims 1-6, 13-17, 21-23, 25, 73-78, 80-82 and 90-92 are rejected under 35 U.S.C. § 103(a) over Pederson in view of Marsh. Claims 63 and 79 are rejected under 35 U.S.C. § 103(a) over Pederson in view of Terman.

These rejections are respectfully traversed. It is respectfully submitted that claims 1-23, 25, 56-67, and 69-97 are allowable over Whitcher, Marsh and Pederson individually and in view of any combination of Brainard, Arao, Terman, HP User's Guide, and the admitted prior art for at least the following reasons.

The Background section of the specification discusses a need for the light therapy systems to provide the necessary light intensity and color spectrum, similar to daylight (e.g., see, present application, paragraph [0003]). It further discusses a need for light therapy apparatus that is powerful enough not to create retinal after imaging while using a portable power source (e.g., see, present application, paragraph [0007]). The claims are amended herein to clarify their recitation and to include a limitation of "a portable power supply".

It is respectfully submitted that the ocular light therapy apparatus is not just a meaning free label, it connotes some inherent structure and functionality understood by those skilled in the art to be unique. Such apparatus includes unique limitations that

distinguish it from common computer systems and semiconductor devices. It is respectfully submitted that the combination of diverse unrelated references not related to the field of ocular light therapy, for example, a handheld computer system of Whitcher, a semiconductor device of Arao, and the HP User's Guide, does not anticipate or make the apparatus of the independent claims obvious.

It is true, as stated on page 16 of the Office Action, that inverters are needed for running CCFLs from DC sources. It is also true that as described in the Background section of the specification, prior to the present application, the ocular light therapy apparatus was not made portable (not tied to an electric outlet) comprising a portable housing including a light output device, an inverter, and a portable power supply for powering the light output device through the inverter.

#### The Rejection Under 102(B) In View Of Whitcher

Whitcher describes a handheld computer system not an "ocular light therapy apparatus for delivering light to eyes of a subject to treat disorders that are responsive to ocular light therapy" and including "an inverter carried by the portable housing and coupled to the power supply; and at least one light source carried by the portable housing, powered through the inverter by the power supply". Whitcher does not teach, disclose, or suggest an ocular light therapy apparatus or an inverter coupled to the power supply as recited at least in independent claim 87 from which claims 88 and 89 depend.

The Rejection Under 102(B) In View Of Marsh

It is respectfully submitted that the Office Action references almost all of Marsh without identifying any of the elements of independent claims 1 and 21. It is not clear what exactly is being rejected. Marsh describes exit signs, traffic signals, informational and other signage and lighting devices utilizing CCFL-type devices (see, Marsh, the Abstract), not light therapy apparatus or device to which the claims are directed. While the Office Action references col. 1 to col. 6, (col. 7 includes the description of the drawings) col. 8 to col. 14, it does not suggest which claim element is being anticipated by that reference. The Applicants were unable to locate any teaching, disclosure, or suggestions of at least a “light therapy apparatus for delivering light to eyes of a subject to treat disorders that are responsive to ocular light therapy”; “a portable power supply; an inverter coupled to the power supply; a light output device including a plurality of light sources arranged across a light emission area, the light output device is powered through the inverter by the portable power supply to emit light in the same general direction to illuminate the eyes of the subject; and a portable housing having a maximum peripheral dimension of ten inches for carrying the inverter, portable power supply, and the light output device” as recited in independent claim 1 and similarly recited in independent claim 21. Claims 2-5, 11, 13, 18-20, and 57 depend from the above-discussed independent claims.

The Examiner is requested to use column and line number to identify sections of Marsh, which anticipate the individual elements of the rejected claims should this rejection be maintained.

The Rejection Under 102(E) In View Of Pederson

At col. 3, lines 40-42 Pederson states that "[t]he device preferably operates using DC power and is supplied with an external AC-DC converter". Independent claims 1 recites "an inverter coupled to the power supply", independent claims 83, and 93 include similar recitations of an inverter. It is respectfully submitted that Pederson does not teach, disclose, or suggest this limitation.

The Rejection Under 102(E) In View Of Yano

It is clear from the prolix references of col. 8 through col. 18 of Yano provided in the Office Action that Yano is not directed to a "light therapy device for delivering ocular light to a subject to treat disorders that are responsive to ocular light therapy" as recited in independent claim 83 and similarly recited in independent claims 87 and 93. It is respectfully submitted that Yano does not teach, disclose, or suggest any aspect of light therapy. The display units described in Yano cannot perform as light therapy devices. It is respectfully submitted that Yano does not teach, disclose or suggest that they do. Therefore, Yano can not be said to anticipate independent claims 83, 87, and 93. Claims 84-86, 88 and 94-97 are not anticipated at least for the same reasons as the independent claims from which they depend.

The Rejection Under 103(A) Over Pederson In View Of Brainard

As argued above, Pederson does not anticipate independent claim 1 at least because that claim recites "an inverter coupled to the power supply" independent claims 73, 83, 87, and 93 include a similar recitations. Brainard does not remedy the deficiency of

a description or suggestion of the inverter in Pederson. Accordingly, independent claims 1, 73, 83, 87, and 93 are not made obvious by the combination of Pederson and Brainard and claims 7-12, 19, 20, 56-62, 64-67, 70-72, 84-86, 88-89, and 94-97 are not made obvious at least for the same reason.

The Rejection Under 103(A) Over Whicher In View Of Arao, HP User's Guide And The Admitted Prior Art

As argued above, Whicher describes a handheld computer system, which does not anticipate or makes obvious “ocular light therapy apparatus for delivering light to eyes of a subject to treat disorders that are responsive to ocular light therapy” as in independent claim 1. Arao, which describes a method of manufacturing semiconductor device, the HP User's Guide, and the admitted prior art do not remedy Whicher not being an analogous device or within the same area of art. Further, in addition to the ocular light therapy apparatus Whicher does not teach, disclose, or suggest an “inverter coupled to the power supply” or “the light output device is powered through the inverter by the portable power supply” as recited in independent claim 1 from which claims 2, 4-6, and 13-18 depend.

The Rejection Under 103(A) Over Whicher In View Of Terman

As argued above, Whicher describes a handheld computer system, which does not anticipate or makes obvious “ocular light therapy apparatus for delivering light to eyes of a subject to treat disorders that are responsive to ocular light therapy” as in independent claim 1. Terman does not remedy that deficiency. It similarly does not teach, disclose or suggest “ocular light therapy apparatus for delivering light to eyes of a subject to treat

disorders that are responsive to ocular light therapy". Thus, it is respectfully submitted that the combination of Witcher and Terman does not teach, disclose, or suggest the recitations of independent claim 1 as well as these of claims 2-3, 12-19, 56-67, and 69 that depend from claim 1.

#### The Rejection Under 103(A) Over Pederson In View Of Marsh

As discussed above, Pederson does not teach an inverter and Marsh describes stationary exit signs, traffic signals, informational and other signage and lighting devices utilizing CCFL-type devices. Accordingly, the combination of Pederson and Marsh does not teach or suggest at least "a portable housing having a maximum peripheral dimension of ten inches for carrying the inverter, portable power supply, and the light output device" as in independent claim 1. Independent claim 73 includes similar recitations. Claims 2-6, 13-17, 21-23, 25, 74-78, 80-82, and 90-92 depend from independent claim 1 and 73 and are not made obvious at least for the same reason.

#### The Rejection Under 103(A) Over Pederson In View Of Terman

Claims 63 and 79 are dependent claims, which are patentable at least for the same reason as their respective independent claims from which they depend.

Based on the foregoing, the Applicants respectfully submit that independent claims 1, 21, 73, 83, 87, 90 and 93 are patentable and notice to this effect is earnestly solicited. Claims 2-20, 22-23, 25, 56-67, 69-72, 73-82, 84-89, 91-92, and 94-97 respectively depend

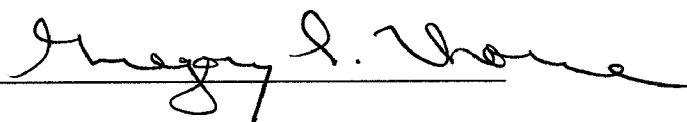


from one of the independent claims and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

Gregory L. Thorne, Reg. 39,398  
Attorney for Applicants  
August 16, 2010

**THORNE & HALAJIAN, LLP**  
111 West Main Street  
Bay Shore, NY 11706  
Tel: (631) 665-5139  
Fax: (631) 665-5101